

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
MIDDLE DIVISION**

ROGER W. WATTS, JR.,

Plaintiff,

v.

**WELLS FARGO DEALER SERVICES,
INC.,**

Defendant.

4:15-cv-02250-KOB

ORDER

This case comes before the court on “Wells Fargo Bank, N.A.’s Response to Show Cause Order.” (Doc. 47). On October 20, this court ordered the Defendant to show cause why it should not *sua sponte* dismiss its Counter-complaint for failure to adequately plead a claim upon which relief may be granted. (Doc. 46). Wells Fargo has timely responded to the court’s Order. Although the Counter-complaint contains facts that arguably support a claim for breach of contract, the Counter-complaint did not assert such a claim, resulting in uncertainty as to Defendant’s actual claims.

Wells Fargo seeks to amend its Counter-complaint to more clearly assert its claims; specifically, to add a count alleging a breach of contract by Plaintiff. Rule 15 of the Federal Rules of Civil Procedure mandates that “[t]he court should freely give leave when justice so requires.” Fed. R. Civ. P. 15(a)(2). Moreover,

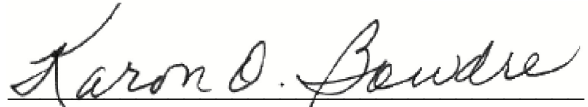
[i]n the absence of any apparent or declared reason—such as undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party by virtue of allowance of the amendment, futility of amendment, etc.—the

leave sought should, as the rules require, be ‘freely given.’

Foman v. Davis, 371 U.S. 178, 182 (1962). Because Defendant’s proposed amendment is primarily ministerial, that is, it amends the Counter-complaint to state clearly the claim to which the parties have referred throughout this litigation, Plaintiff need not file an amended answer to Defendant’s amended pleading.

For good cause shown, Defendant’s motion is **GRANTED**. Defendant must file its Amended Counter-complaint on or before **Wednesday, October 26, 2016 at 10:00 AM**.

DONE and **ORDERED** this 25th day of October, 2016.


KARON OWEN BOWDRE
CHIEF UNITED STATES DISTRICT JUDGE